

REMARKS

The present Amendment is in response to the Office Action mailed March 20, 2009. Claims 1-15 are cancelled, no claims are amended, and claims 16-35 are added. Claims 16 - 35 remain pending in view of the above amendments.

Applicants note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. Applicants also note that the remarks presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited reference. Such remarks, or a lack of remarks, are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicants reserve the right to challenge the purported teaching and prior art status of the cited references at any appropriate time. Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks.

Examiner's Interview

Applicant's express their appreciation to the Examiner for conducting an interview with Applicant's representative on June 24, 2009. The substance of the interview is included in this response.

Rejection Under 35 U.S.C. § 101

The Office Action rejected claims 6-10 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Claims 11-15 were also rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Claims 6-15 are herein cancelled. As such, Applicants respectfully request that the rejection be withdrawn.

Rejection Under 35 U.S.C. §102

The Office Action rejected claims 1-15 under 35 U.S.C. § 102(e)¹ as being anticipated by U.S. Publication No. 2003/0013951 (*Stefanescu*).

Anticipation requires that each and every element of the claims, as the elements are set forth in the claims, are found in a single reference. Because *Stefanescu* does not teach or suggest each and every element of the pending claims, Applicants respectfully traverse this rejection in view of the following remarks.

Stefanescu discloses an organization and searching system for image data sources. See Abstract. Using a series of user interfaces, a single user is able amend image data with a variety of information, which may be used by the system to perform multi-modal matching of elements of the image data. This may assist the user in the diagnosis of the image data. See ¶[0050]-[0052] and ¶[0058].

Stefanescu also teaches a reference interface which may be used by the user as a reference tool. Reference image data may be used by the matching or search engine as reference data that may be compared to the user's submitted image data and associated information so as to assist in the assisted diagnosis process. See ¶[0056]. Because the system is primarily designed to be used as a reference for assisting in diagnosing the contents of image data, the user has the ability to tag or identify his or her image data in order to assist in the matching or diagnosis process. However, the user does not have the ability to submit his or her image data to the system where it is incorporated into part of the reference data. Thus, the user described in *Stefanescu* interacts with the reference data of the system in a passive manner, without the ability to modify or create the reference data. The user can only compare his or her own image data with existing reference image data.

In contrast, claims 15, 23, and 29, each recite both "a user" that can navigate the medical reference material through a navigable interface and "an author" who is capable of creating "a hierarchy of medical reference data including a plurality of diagnoses, a

¹ Because *Stefanescu* is only citable under 35 U.S.C. § 102(e) Applicants do not admit that *Stefanescu* is in fact prior art to the claimed invention but reserve the right to swear behind *Stefanescu* if necessary to remove it as a reference.

plurality of anatomical regions, a plurality of pathologies, and relational data describing relationships between the diagnosis, anatomical regions, and pathologies, each diagnosis defining at least one medical condition that is associated with at least one anatomical region and pathology,” “diagnosis information for each of the plurality of diagnoses, wherein the diagnosis information describes general characteristics of each of the plurality of diagnoses,” and “a plurality of images and text relating to a particular case from the author, the images and text being associated with a particular diagnosis stored in the relational database.”

Unlike the system described in *Stefanescu*, where any information entered by the user remains separate and apart from the reference data, claims 15, 23, and 29 recite an author who is capable of submitting medical reference data which is received by the system and incorporated into a database where it may be subsequently received by other users of the system. Thus, *Stefanescu* fails to teach the authoring aspects of the invention as recited in claims 15, 23, and 29.

Thus, new claims 15, 23, and 29 clarify a distinction between the author and the user and in their respective rights. The author creates the medical reference data, including a “hierarchy of medical reference data” “describing the relationships” between the medical reference data stored in the hierarchy. This medical reference data is then stored in a relational database, which a user is able to access via a navigable interface. Thus, the author of the new claims 15, 23, and 29 is able to create medical reference data which is incorporated into the system and which may be accessed by subsequent users. This is unlike the system described in *Stefanescu*, where the content created or uploaded by the user is stored separately from reference data and remains unavailable to other users of the system. Thus, *Stefanescu* fails to teach the authoring aspects as described in the new claims 15, 23, and 29.

Further, unlike the systems recited in claims 15 and 23, where the user is able to request a selected subset of medical reference material “in a requested format,” which requires the system to “reformat[ing] the selected subset of the medical reference data received by the author into the requested format requested by the user to form the requested clinical reference material,” the reference material sent to the user in

Stefanescu is available to the user only via the reference workspace shown in Figure 6. See ¶[0055]-[0056]. Thus, the reference material is not reformattable, as recited in claim 15 and 23.

For at least these reasons and as discussed during the interview, *Stefanescu* fails to teach several elements of each of the independent claims 15, 23, and 29 of this application and Applicants respectfully request that the rejection under 35 U.S.C. § 102(e) be withdrawn. The dependent claims are patentable for at least the same reasons.

CONCLUSION

In view of the foregoing, and consistent with the tentative agreement reached during the Examiner Interview, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated July 17th, 2009.

Respectfully submitted,

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